

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL DEAN,)	
)	
Plaintiff,)	Civil Action No. 11-525
)	
v.)	Judge Terrence F. McVerry/
)	Magistrate Judge Maureen P. Kelly
Supt. LOUIS FOLINO; UNNAMED SGT. at R.D.-)	
SCI Greene; BRIAN COLEMAN, Supt. of SCI)	
Fayette; SGT. BUSH, Sgt. at R.D.-SCI Fayette,)	
)	
Defendants.)	

MEMORANDUM ORDER

The above-captioned prisoner civil rights complaint and request to proceed in forma pauperis ("IFP") were received by the Clerk of Court on April 21, 2011, and were referred to United States Magistrate Judge Cathy Bisson, for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

On May 10, 2011, Magistrate Judge Bissoon issued a Report and Recommendation ("the Report"), ECF No. [7], recommending pre-service dismissal of the original Complaint because it failed to state a claim upon which relief could be granted. The Report identified three grounds for dismissal. First, the Report found that any procedural due process claim failed to state a claim because there were adequate post deprivation remedies. Second, the Report found that no substantive due process claim was made out because the actions alleged in the Complaint simply did not shock the Court's conscience. Third, to the extent that Plaintiff had sought to make an access to courts claim, the Report found that Plaintiff failed to state a claim because he failed to allege that any non-frivolous suit was lost due to the destruction of his property. In the Report,

Plaintiff was advised that he had a limited time in which to file objections to Magistrate Judge Bissoon's Report. Rather than file objections, Plaintiff filed an Amended Complaint that he signed on June 16, 2011. ECF No. [10].¹ On June 22, 2011, this case was referred to Magistrate Judge Kelly. ECF No. [14]. On July 13, 2011, Plaintiff again filed a second Amended Complaint ("Second Amended Complaint"), ECF No. [16], that appears to be identical to the initial Amended Complaint.

On August 22, 2011, Magistrate Judge Kelly issued a Report recommending pre-service dismissal of the second Amended Complaint pursuant to the PLRA for failure to state a claim upon which relief could be granted. ECF No. [17]. The Report was mailed to Plaintiff who filed objections. ECF No. [18]. Other than requesting appointment of counsel, Plaintiff makes no arguments as to why the Report should be rejected, only a conclusory assertion that the Report should be rejected.

Hence, the following order is entered.

AND NOW, this 28th day of September 2011;

IT IS HEREBY ORDERED that the complaint is dismissed pre-service pursuant to the PLRA for failure to state a claim upon which relief can be granted.

IT IS FURTHER ORDERED that the Report and Recommendation, ECF No. [17], filed on August 22, 2011 by Magistrate Judge Kelly, is adopted as the opinion of the court.

s/ Terrence F. McVerry
United States District Judge

¹ The Amended Complaint was filed before the Court could adopt the Report.

cc: MICHAEL DEAN
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